

REMARKS

In the office action mailed March 1, 2002, the Examiner indicated that a certified copy of the German priority document was never received. Claims 17-25 were rejected under 35 U.S.C. §112, 2nd paragraph. Finally, claims 17-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,217,128 to Stenger (hereinafter "Stenger") in view of U.S. Patent No. 6,223,945 to Giblin et al. (hereinafter "Giblin") or U.S. Patent No. 3,114,932 to Donnelly (hereinafter "Donnelly"). Claim 32 was rejected under 35 U.S.C. §103(a) as being unpatentable over Stenger, Giblin, or Donnelly, and further in view of U.S. Patent No. 3,987,926 to Yavorsky (hereinafter "Yavorsky"). Finally, claim 33 was rejected under 35 U.S.C. §103(a) as being unpatentable over Stenger, Giblin, or Donnelly, and further in view of U.S. Patent No. 5,232,120 to Dunken et al. (hereinafter "Dunken").

Claims 17-33, as amended herein, and new claims 34-42 are being submitted for the Examiner's consideration.

Certified Copy of German Application

On page 1 of the March 1, 2002 office action, the Examiner asserted that Applicants have not filed a certified copy of the German application as required by 35 U.S.C. §119(b). The present application is the U.S. national stage application of International application PCT/EP99/03723, which claimed priority to German application DE 298 09 489.4. Applicants have already supplied a certified copy of the German application to the International Bureau, as required under PCT Regulations. Therefore, Applicants respectfully submit that a certified copy of the German application need not be submitted to the U.S.P.T.O. See MPEP 201.13(b).

Rejections Under 35 USC §112

The substance of the §112 rejection is missing. Since no such rejection has been articulated by the Examiner, Applicants cannot respond to the rejection. Therefore, withdrawal of the §112 rejection is requested.

Amendments to the Drawings

Figs. 9 and 18 have been amended to explicitly point out certain features shown in the drawings.

Amendments to the Specification

The specification has been amended to explicitly point out certain features shown in the original drawings. No new matter is believed to have been introduced through these changes.

Amendment to the Claims

OK
Fig. 14
In independent claim 17, the word "annular" has been replaced by the more familiar term --cylindrical--. Applicants respectfully submit that the proper scope of the claim (i.e., "cylindrical") was clear from the written description and drawings (e.g., Fig. 14). Further, it appears that the Examiner has examined the claims as if "cylindrical" were used in place of "annular" (because Stenger, Donnelly, and Yavorsky all have substantially cylindrical portions). Claim 17 has also been amended to omit all reference to the "outer surface" of the sidewall.

N.M.
Claim 20 has been amended to improve its readability.

OK
Claims 21 and 25 have been amended to speak of the --thickness--, rather than a "height" of the thicker and thinner wall regions. In this regard, it is noted that the specification, on page 7, line 12 et seq. speaks of "wall thickness".

OK
Claims 22 and 25 have been broadened by eliminating the "diameter" limitation (which now appears in new dependent claims 36 and 37).

N.M.
Independent Claim 26 has been amended to specify that the vertical ribs are on the central portions of the sidewalls.

N.M.
Independent claims 29, 32 and 33 have all been amended to recite that the outer surface is smooth at least in those regions opposite the vertically oriented ribs formed on the sidewall's inner surfaces.

New independent claim 40 recites a container having two pairs of parallel sidewalls of equal height, in combination with the "vertical rib" feature of the present invention.

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New dependent claims 34-39 and 42-43 further define the inventions of their respective base claims and/or intervening claims.

Rejections of Claims 17-31

Original Claim 17 was rejected as being unpatentable over Stenger in view of Giblin or Donnelly. In formulating the rejection of claim 17, the Examiner conceded that Stenger “fails to teach vertical ribs along the sidewall of the bottle”, but argued that it would be obvious to modify Stenger to have the vertical ribs disclosed in either of the two secondary references. The Examiner stated that the motivation to combine is that it is “desirable to make containers of various kinds having reinforced, more rupture-resistant sides in order to improve the useful life of the containers”. This rejection is traversed because (a) Stenger, which already has horizontal ribbing on its sides for this purpose, teaches away from adding vertical ribs to its sidewalls, and (b) even if such a combination were made, one still would not arrive at the claimed invention of pending claim 17.

Stenger’s bottle is “of the type used to hold purified water and typically installed in an inverted position on a gravity-type dispenser.” (Stenger, col. 2, lines line 54-46). It includes a bottom wall provided with “an enlarged, bulbous and ring-like peripheral portion 24 which strengthens the bottom” (Stenger, col. 2, lines line 64-65) and a cylindrical sidewall provided with “two ring-like bulbous portions 28 . . . located midway along the height of the sidewall to increase the hoop and column strength of the sidewall.” (Stenger, col. 1, line 68 - col. 3, line 3). In other words, Stenger *already* has features -- horizontal ribs – for strengthening the sidewall. To the extent that Stenger incorporates horizontal ribs, is submitted that Stenger teaches away from being modified to also include vertical ribs.

A close examination of the Stenger, Giblin and Donnelly references reveals that no combination of these references would result in the invention of pending claim 17. Claim 17, which is directed to a “barrel assembly” recites, *inter alia*, (1) an “open-top hollow barrel body”; (2) “cylindrical sidewall . . . terminating in an upper rim”; (3) “a clamping ring” and (4) “cover lid configured to seal the open-top barrel body in conjunction with the clamping ring”. None¹ of these features appears in any of these references. For the foregoing reasons, it

¹ On page 4 of the office action, the Examiner deemed “a barrel and a bottle to
(continued...)

is submitted that claim 17, and all claims depending thereon, define over the cited combinations of references. Should the rejection be maintained, the Examiner is kindly asked to point out what features, in these references, she considers to correspond to each of the above four claimed elements.

Pending independent Claim 26 recites that central portions of the first and second pairs of sidewalls each have an inner surface provided with a plurality of spaced-apart vertically oriented ribs defining thicker wall regions spaced apart by thinner wall regions formed on the inner surface. None of the cited references teaches, suggests, or discloses these features. Giblin discloses a container having panels, such that “at each of the corners formed by intersection of the panels with each other, a vertically extending groove 210 is formed in the outer wall of the bottle.” (Col. 12, lines 1-17, emphasis added). Giblin does not teach, suggest, or disclose that central portions of the inner surfaces of the panels have these grooves 210. Therefore, claim 26, and all claims depending thereupon, are believed to be patentable over the cited references.

With regard to original claim 29, the Examiner did not specifically articulate the basis of rejection. Pending independent claim 29 is directed to a “substantially rectangular canister”. Giblin’s bottle, to the extent that it may be considered a “substantially rectangular canister”² discloses grooves 210 on the outer surface. These grooves correspond to the indentations formed on the inner surface of Giblin’s bottle, and are more or less complementary thereto. Thus, unlike the invention of claim 29, Giblin does not disclose “the rounded corner areas further having an outer surface that is smooth at least in those regions opposite the vertically oriented ribs provided on the inner surface.”³ Accordingly, claim 29 is believed to define over the cited references.

¹ (...continued)
have the same shape.” It is submitted that the Examiner is mistaken. While barrels and bottles are both “shaped” to accommodate an interior volume and include an opening through which contents may be introduced or extracted, this does not mean that they have the same shape. In any event, it is the claimed invention upon which the Examiner should focus — and none of the prior art reference disclose the claimed features.

² Giblin considers the bottle to have “an octagonal cross section”. (Giblin, col. 11, lines 66-67).

³ It is noted that Giblin’s Fig. 1 shows a bottle with no ribs or grooves (See Giblin, col. 12, lines 14-16).

Rejection of Original Claim 32

Independent claim 32 is directed to a closed “bung-type barrel” having a “barrel top provided with first and second lateral bung fittings.” The Examiner rejected original claim 32 as being unpatentable over (a) Stenger in view of (b) either Giblin or Donnelly and (c) further in view of Yavorsky. This rejection is traversed for the simple reason that there is no motivation to replace the upper portions of any of Stenger, Giblin or Donnelly with the container top disclosed in Yavorsky. Indeed, making such a modification would destroy the invention of the primary reference. Stenger is directed to a water bottle that one normally inverts for dispensing water. Stenger’s sole independent claim recites a “container . . . having a generally cylindrical sidewall . . . having a generally frustoconical breast . . . and having a tubular neck extending upwardly from the central portion of said breast” (emphasis added). It is submitted that one skilled in the art would not replace Stenger’s “frustoconical breast” and “tubular neck” with Yavorky’s container top, as it would utterly destroy the whole point of Stenger. Similarly, Giblin and Donnelly each claim specific structures that would necessarily be destroyed, if they were modified to incorporate the container top of Yavorsky.

Rejection of Original Claim 33

Independent claim 33 is directed to a pallet container. As is known to those skilled in the art, a “pallet container” is a type of container that can be stacked atop another such container. The pallet container of claim 33 recites, *inter alia*, “first and second pairs of substantially parallel sidewalls joined together at corner areas” and “a container top having an opening formed in a central portion thereof.” This claim was rejected under 35 USC 103(a) as being unpatentable over Stenger in view of either Giblin or Donnelly and further in view of Dunken. Of these, Giblin is the only reference that arguably shows a container having two pairs of parallel sidewalls and Dunken is the only reference relied upon by the Examiner that discloses a container suitable for stacking. Therefore, to arrive at the invention of pending claim 33, one must, at the very least, (1) remove the upper portion of Giblin’s bottle (e.g., immediately below where Giblin’s handle 8 is connected), and then (2) fit Dunken’s lid 10 to the remaining lower portion of Giblin. It is submitted that there is no motivation to make such a modification since (a) it would not only destroy the whole purpose of Giblin, but (b) it is completely unclear how the circular lid of Dunken would be fitted to the (approximately)

rectangular container of Giblin. For this reason alone, it is submitted that pending claim 33 defines over any combination of the cited references.

New Claim 40

Pending Claim 40 is directed to a container having first and second pairs of substantially parallel flat sidewalls joined together at corner areas and connected to the container bottom, wherein a height of the first pair of sidewalls is approximately equal to a height of the second pair of sidewalls. Fig. 18 of the present application discloses such a container. None of the cited references teaches, suggests, or discloses a container having these features. Giblin discloses a container having first and second side panels 236, 238, front panel 230, and rear panel 244 which "extends downwardly from shoulder 13." (Col. 11, lines 41-62.) However, Giblin does not teach, suggest, or disclose that a height of the first pair of sidewalls is approximately equal to a height of the second pair of sidewalls. Therefore, independent claim 40, and dependent claims 41-42, are believed to be patentable over the cited references.

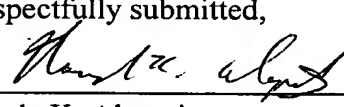
With regard to all claims not specifically mentioned, it is submitted that these are patentable not only by virtue of their dependency on their respective base claims, and any intervening claims, but also for the totality of features recited therein.

Reconsideration of the application is requested. Claims 17-42 are believed to be in allowable form and define over the prior art. An early notice of allowance is requested so that the application may proceed to issue.

A separate fee transmittal sheet is enclosed.

Respectfully submitted,

Date August 1, 2002



Nanda K. Alapati
Marcia H. Sundeen
PENNIE & EDMONDS LLP
1667 K Street, N.W.
Washington, DC 20006
(202) 496-4400

Reg. No. 39,893

Reg. No. 30,893

APPENDIX A

Changes to Specification Paragraphs Made in Amendment Filed August 1, 2002

Page 8, between lines 33 and 34:

As shown in Fig. 9, internal ribs 44 are located along central portions 43 of the sidewalls.

Page 9, between lines 25 and 26:

As shown in Fig. 18, container 76 has two pairs of substantially parallel flat sidewalls 80a, 80b, 82a, 82b joined together at corner areas. As shown, a height of the first pair 80a, 80b is approximately equal to a height of the second pair 82a, 82b.

Page 9, between lines 21 and 23:

As seen in the embodiments of Figs. 8, 10, 12, 14 and 16, and their respective cross sections, the sidewalls' outer surfaces are smooth at least in those regions opposite the vertically oriented ribs formed on the sidewall's inner surfaces.